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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,201	04/02/2002	Michael Chopp	1059.00063	4921

7590

05/03/2004

Kenneth I Kohn
Kohn & Associates
Suite 410
30500 Northwestern Highway
Farmington Hills, MI 48334

EXAMINER

JAGOE, DONNA A

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/018,201

Applicant(s)

CHOPP ET AL.

Examiner

Donna Jagoe

Art Unit

1614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.


Claim(s) objected to: _____.

Claim(s) rejected: 1-8.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8/13/02.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: the addition of the specific agents deemed as nitric oxide donor compounds does not place the application in condition for allowance. Since the same agent (L-arginine) is being administered under the same conditions in the prior art as in the instant claims, the general promotion of neurogenesis must inevitably occur in each case. Applicant appears to object to the absence of a secondary reference for the outstanding 35 U.S.C. 103(a) rejection. The rejection was made a 103(a) rejection because the prior art (Bredt et al.) does not specifically teach production of neurons. However, relying on applicants disclosure, the definition of neurogenesis includes synaptogenesis. Bredt et al. teach NO donors potentiate synaptic transmission. A secondary reference is not needed because all elements are present. It is merely a difference of nomenclature. Regarding the assertion that synaptogenesis is the formation of new synapses, this is not defined in the instant specification.



MARIANNE C. SEIDEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600